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Letter dated 30 May 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 November 2002 (S/2002/1288).

The Counter-Terrorism Committee has received the attached third report from the Democratic People's Republic of Korea submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 28 May 2003 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to transmit herewith the third report from the Government of the Democratic People's Republic of Korea to the Counter-Terrorism Committee pursuant to paragraph 6 of the Security Council resolution 1373 (2001) (see enclosure).

(*Signed*) **Pak** Gil Yon
Ambassador
Permanent Representative

Enclosure

Third report of the Government of the Democratic People's Republic of Korea to the Counter-Terrorism Committee (CTC) of the Security Council pursuant to paragraph 6 of resolution 1373(2001)

The Government of the Democratic People's Republic of Korea (DPRK) consistently maintains its position of opposing all forms of terrorist acts and support to them and makes every possible effort for preventing terrorism.

The Government of the DPRK is of the view that a combat against terrorism should be waged in conformity with the purposes and principles of the United Nations Charter in every aspect and that in no case, should it be abused for the pursuit of interests and strategic goals by individual states or a group of countries.

At present, a major task facing the United Nations in the field of anti-terrorism is to prevent a state terrorism.

The US unilateral invasion on Iraq against the will of the international community constitutes not only a grave infringement upon its sovereignty, but also an open state terrorist act aimed to overthrow the leadership of a sovereign State.

Recognizing that a priority is given to the prevention of a state terrorism in the effort of the United Nations to combat terrorism, the DPRK Government submits the following third report to the Counter-Terrorism Committee (CTC) pursuant to Resolution 1373 of the UN Security Council.

Que. 1.1 The CTC has agreed on further questions and comments for the consideration of the Government of the DPRK with regard to the implementation of the Resolution, as set out in this section.

1.2 Effective implementation of sub-paragraph 1(b) requires Member States to criminalize the willful collection or provision of funds by nationals/national entities or by foreigners/foreign entities in the country with the intention or in the knowledge that they will be used for terrorist acts, committed either within or outside the country. This is also required under article 2 of the Convention for the Suppression of the Financing of Terrorism, which has been signed by the Government of DPRK. The acts sought to be criminalized are capable of being committed without any related terrorist act actually occurring or attempted. It should be noted that the funds used for the financing of terrorism could be both of a legal and an illegal origin. The articles of the Criminal Law referred to in the reply to sub-paragraph 1(b) in the supplementary report appear to deal with terrorist acts against people only and the provisions in the Law on the

Management of Foreign Currency appear to deal only with the use of foreign currencies. They do not appear to deal with all of the acts mentioned in this paragraph and therefore they seem inadequate to comply fully with the need to criminalize the collection and provision of funds for terrorist acts.

The CTC would be grateful to know the intentions of the Government of the DPRK in regard to meeting the requirements of this sub-paragraph.

Ans. In accordance with the Law on the Currency Circulation of November 26, 1998, the Criminal Law amended and supplemented on March 15, 1995 and the Law on the Management of Foreign Currency of January 31, 1993, the State supervises and controls in rigorous legal and practical terms the willful collection or provision of funds by national/national entities or by foreigners/foreign entities in the country with the intention or in the knowledge that they will be used for terrorist acts, committed either within or outside the country and imposes administrative or criminal charges on persons involved in the above mentioned case in consideration of the gravity of their crimes.

Articles 54 and 55 of the Criminal Law of the DPRK state that a person who has committed a crime against the State or conceals evidence of crime against the State and a person who, having learned that a crime against the State is being planned or has been committed, fails to inform the relevant organ of it though it was fully possible to take steps to prevent it immediately, shall be committed to a reform institution for up to three or 4 years.

Articles 41 and 43 of the Law on the Currency Circulation provide that a person who has diverted funds in national currency will be given the penalty of the confiscation of relevant amount of funds or the compensation of a loss, and institutions, enterprises, organizations and individuals that have violated this law will face administrative or criminal charges in consideration of the gravity of their crime.

Que. 1.3 Sub-paragraph 1(c) requires Member States to freeze (immobilize) funds and other financial assets or economic resources (a) of persons and entities that make them directly available for or using them for terrorist purposes: (b) of persons and entities owned by, acting on behalf of or on the directions of persons and entities engaged in terrorist activities; (c) including funds derived or generated from property owned by or controlled directly or indirectly by persons and entities engaged in terrorist activities. The legal provisions should also enable freezing of funds etc. held in financial institutions of the State by individuals and entities, whether resident or non-resident, that support terrorist activities either inside or outside the territory of that State, in order to prevent the funds being used for terrorist purposes. There is a need to distinguish freezing of funds that are proceeds of crime, dealt with usually in money

laundering laws, from funds that come from a legal source and yet used for terrorist purposes.

The supplementary report of the Government of the DPRK states that the Law on the Management of Foreign Currency prohibits alien terrorists or entities from having their own accounts and properties at the banks and financial institutions in the DPRK. While this provision is a deterrent, could the Government of the DPRK please explain how funds and financial assets held in DPRK currency in the local financial institutions, either by individuals and entities, whether resident or non resident, that are suspected of having terrorist links could be frozen by the authorities, as required by sub-paragraph 1(c).

Ans. The DPRK enacted the Law on the Management of Foreign Currency on January 31, 1993 which regulates the use and bringing-in and taking-out of foreign currencies and the Law on the Currency Circulation on November 26, 1998 which regulates the circulation of national currency.

Pursuant to the Law on the Currency Circulation, the overall circulation of the national currency within the country is subject to strict and regular supervision and control of the Central Bank and other relevant organs under the unified guidance of the Cabinet of the DPRK.

Therefore, there is no possibility that individuals or entities suspected of having terrorist links may have fund or financial assets in local financial institutions in national currency.

As indicated in the supplementary report, the DPRK is not facing the above-mentioned problems and in practice, there are no accounts or financial assets that alien terrorists or entities have in domestic banks and local financial institutions.

Que. 1.4 The requirements of sub-paragraph 1(d) would be partly covered by provisions enacted to comply with sub-paragraph 1(b). In addition, there are certain other measures required ensuring effective implementation of this sub-paragraph, as well as to ensure the prevention of financing of terrorism in general. In order to prevent the financing of terrorism there should be a legal obligation for all financial institutions and other professions engaged in financial transactions to report to the relevant authorities all transactions that appear suspicious. Failure to do so should attract appropriate sanctions. There should be a mechanism for authorities to investigate the reported transactions. Related to this is the matter of having a suitable mechanism to oversee the collection and use of funds by charitable, religious and cultural associations to ensure that they are not diverted to the use of terrorists. The CTC would be grateful if the DPRK could provide an outline of the existing provisions of law that deal with the above-mentioned requirements and, if such provisions do not exist in the current

laws. could the Government of the DPRK please explain how it proposes to meet the requirements of sub-paragraph 1(d).

Ans. This question is mostly answered by paragraphs 1.3 of this report.

Financial transactions and diversion that appear suspicious are prevented by the Law on the Management of Foreign Currency and the Law on the Currency Circulation. In case such financial transactions and diversion occur, they are reported immediately to relevant law enforcement organs for investigation and penalty.

As indicated in the supplementary report, there is no possibility in the DPRK that terrorist entity or entities supporting terrorism may have accounts and there does not exist any financial accumulation and transactions that have terrorist links.

Que. 1.5 Sub-paragraph 2 (a) requires, inter alia, that recruitment in a country to terrorist groups operating inside or outside the territory of that country be prohibited. This can be met by having a direct provision in law that prohibits and criminalizes all forms of recruitment to terrorist groups within or outside the country. The CTC would be grateful to know how the Government of the DPRK has dealt with this requirement of the Resolution and explain, if provisions do not exist in the current laws of the DPRK, how it proposes to deal with it?

Ans. Under the circumstances whereby the attempts of outside hostile forces to isolate and stifle the DPRK are ever more undisguised, the Government of the DPRK keeps vigilance, particularly on all forms of terrorist acts from the outside against the country.

In accordance with the Criminal Law, all forms of recruitment to terrorist groups are criminalized as complicity with terrorist acts and persons involved in them will be given penalties.

Que. 1.6 Sub-paragraph 2(b) requires Member States to provide early warning to other States of anticipated terrorist acts. Compliance with this paragraph requires arrangements that enable Member States to convey the relevant messages to other States. Could the Government of the DPRK please explain how it provides early warning messages of anticipated terrorist acts to other States. The CTC would be grateful to have a list of the countries with which the Government of the DPRK has any bilateral treaties/arrangements in this regard.

Ans. As indicated in the supplementary report the Government of the DPRK attaches importance to and promotes cooperation and collaboration with other countries in combating terrorism.

Que. 1.7 Sub-paragraph 2 (c) requires States to deny safe haven to those who plan, finance, support or commit terrorist acts. Could the Government of the DPRK please provide an outline and explanation of the provisions of the laws pertaining to the admission of foreigners in the country and the circumstances under which their entry will be bared, including the provisions to exclude or expel them from the country, particularly of those suspected or accused of terrorist acts. It should clarify how safe haven is denied to terrorists.

Ans. Pursuant to Article 19 of the Immigration Law of the DPRK enacted on January 19, 1996 a foreigner shall have a visa issued by the Ministry for Foreign Affairs to enter the country. A foreigner of those countries, that have established visa-free arrangements with the DPRK and a foreigner, who is issued with a certificate to travel to border areas for official business may enter the country with no visa provided that they get an approval from their inviting institutions.

Pursuant to Article 20 of the above-mentioned law, a foreigner who wishes to enter the DPRK should apply for a visa at a diplomatic or consular mission of the DPRK in a foreign country. He or she may seek assistance of an inviting institution of the DPRK for getting a visa.

A foreigner entering the DPRK, should go through immigration procedures properly. Upon entry, he or she should get an entry confirmation seal on a traveler's certificate at an immigration office.

Entry is prohibited for a foreigner who has violated the sovereignty of the DPRK or who has been recognized as threatening the security and social order of the country, and patients with infectious disease.

Pursuant to Article 46 of the above-mentioned law, if a person has violated the immigration law, he will face fine and prohibition of entry/exit. If the violation proves serious, the person concerned shall face expulsion or a criminal charge.

Que. 1.8 Sub-paragraphs 2(d) and (e) require the criminalization of the use of the territory of the DPRK for the purpose of committing terrorist acts against other States or their citizens or for the purpose of financing, planning and facilitating of terrorist acts against other States or their citizens, even though the related terrorist acts may not be committed or attempted. Moreover, sub-paragraph 2(e) emphasizes the need to treat terrorist crimes as serious crimes with appropriate punishments. It also requires States to ensure that every person related to a terrorist act is brought to justice. In this regard, the jurisdiction established over terrorists and terrorist offences and the possibilities to extradite terrorists found in its territory are very important. Accordingly, could the

Government of the DPRK please describe the provisions of law that criminalize the acts mentioned in sub-paragraphs 2(d) and (e)? Please describe also the competence of the courts of the DPRK to deal with criminal acts of each of the following kinds.

- an act committed outside the DPRK by a person who is a citizen of, or habitually resident in, the DPRK(whether that person is currently present in the DPRK or not);
- an act committed outside the DPRK by a foreign national who is currently in the DPRK

Ans. In the DPRK, all laws and regulations are formulated, adopted and enforced with focus on safeguarding the security of the country and the people's life and property, thus giving no room for such acts as indicated in this paragraph. However, a person who has committed or has been involved in such acts will face trial in accordance with relevant laws including the Constitution Law and the Criminal Law of the DPRK.

At present, there are no detailed provisions in the current laws that deal with the above-mentioned acts. Nevertheless, if such acts are committed, the persons involved will be brought to justice and given certain penalties in consideration of the gravity of their acts pursuant to the Criminal Law of the DPRK.

If the above-mentioned acts are committed, criminals will be brought to justice pursuant to the Criminal Law and Criminal Proceedings Act of the DPRK, and the courts will exercise their competence and impose relevant penalties in accordance with legal procedures.

Que. 1.9 Sub-paragraph 2 (f) requires States to provide assistance to other States in the matter of criminal investigations and judicial proceedings if such help is sought. It is essential for compliance with that sub-paragraph that States should have reliable arrangements by which other States could be extended assistance when the need arises and a request is made for assistance. The CTC would therefore be grateful to know the existing arrangements that the Government of the DPRK has in place to comply with the requirements of the above-mentioned sub-paragraph.

Ans. The Government of the DPRK maintains the principle of promoting active cooperation with other countries and international organizations in defending the people's life and property and stamping out terrorism and criminal acts. The Government welcomes to be provided with information on the activities of terrorists internationally, regionally and bilaterally and the DPRK has an arrangement by which assistance is extended to other countries when the need arises.

Que. 1.10 Paragraph 3(a) calls upon all States to exchange operational information concerning the movements of terrorists, traffic in arms, explosives and other sensitive

materials. It also refers to the use of communication technologies by terrorists. Could the Government of the DPRK please explain what arrangements exist to exchange operational information with other Member States as required by sub-Paragraph 3(a)?

Ans. The Government of the DPRK recognizes the need to closely cooperate with other countries with a view to eliminating all forms of terrorism and criminal acts and to this end, exchanging relevant information.

The Government is actively promoting the exchange of information concerning the movement of terrorists, traffic in arms, explosives and other sensitive materials.

Que. 1.11 Could the Government of the DPRK please furnish the CTC with information on the bilateral and multilateral arrangements it has in regard to cooperation on terrorism-related matters with other Member States in order to comply with sub-paragraphs 3(b) and (c)? The CTC would be grateful to have a list of countries with which the Government of the DPRK has such bilateral arrangements.

Ans. For information, please find the answer given in paragraphs 1.5 of this report.

Que. 1.12 Sub-paragraphs 3 (d) and (e) call upon all States to become a party as soon as possible to the relevant international conventions and protocols related to terrorism and to fully implement them. Could the Government of the DPRK please inform the CTC of its intentions to become a party to the international instruments related to the prevention and suppression of international terrorism to which it has not yet become a party? The CTC would be grateful to be informed as to how the international conventions and protocols to which the DPRK is already a party are implemented, in particular how the offences set forth in those conventions and protocols are penalized.

Ans. As indicated in the supplementary report, the Government of the DPRK has acceded to or signed 7 conventions and protocols related to the prevention and suppression of international terrorism such as the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, and is studying the issue of becoming a party to other instruments to which it has not yet become a party.

The Government of the DPRK is strictly abiding by all the provisions of international instruments related to anti-terrorism to which it is a party and intensifying legal and administrative supervision and control lest the above-mentioned crimes occur.

Que. 1.13 Could the Government of the DPRK explain whether political motivation is recognized as a ground for refusing extradition of persons accused of terrorist offences, to ensure compliance with sub-paragraph 3 (g)? In this context, the CTC

would appreciate knowing whether extradition is governed by extradition law and/or bilateral treaties.

Ans. The Government of the DPRK deals with the above-mentioned issue on the basis of the principled position opposing all forms of terrorism and support to them. In this regard, extradition of criminals is governed by bilateral treaties or agreements through consultations.

Que. 1.14 Paragraph 4 expresses concern in regard to the close connection between international terrorism and transnational organized crime, trafficking in drugs and arms, money-laundering, illegal movement of sensitive materials and emphasizes the need to enhance co-ordination of efforts at various levels to strengthen international security. Could the Government of the DPRK please explain how it has addressed these concerns?

Ans. The Government of the DPRK recognizes the close connection between international terrorism and transnational organized crime and is preventing thoroughly the above-mentioned organized crime pursuant to the Criminal Law, the Customs Law and the Immigration Law of the DPRK.